

Applicant's amendments and remarks filed 03/22/2010 have been received and reviewed.

Claims 1-8 are still pending in this application.

Claims 1 and 3-6 are allowed.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2, 7 and 8 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Takeda Chemical Industries, Ltd., Japan (JP 58167592). The basis of this rejection is the same as given in the previous office action and is incorporated herein fully by reference.

Applicants argue that the instant compound possesses characteristics which distinguishes it from the prior art compound. However, this assertion has to be shown, not merely asserted. Therefore, in the absence of a showing that the instant compound demonstrates unexpected and unobvious results over the prior art compounds taught by JP 58167592, the claims are deemed obvious over Takeda Chemical Industries, Ltd., Japan (JP 58167592). Applicants must prove that their compounds possess a property that the prior art compounds do not possess, not is not disclosed to possess. In re Dillon (16 USPQ 1897) states "the discovery that a claimed composition possesses a property not disclosed for the prior art subject matter does not by itself defeat a prima facie case."

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruck Kifle whose telephone number is 571-272-0668. The examiner can normally be reached on Mondays-Fridays from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bruck Kifle/
Primary Examiner
Art Unit 1624

April 24, 2010